THE HONOURABLE SRI JUSTICE R.SUBHASH REDDY
WRIT PETITION No.25245 of 2006
Dated:12.02.2007

Between:

Smt.Petlu Sarojamma.

...Petitioner

and

The Chairman/District Collector, and others.

...Respondents

THE HONOURABLE SRI JUSTICE R.SUBHASH REDDY
WRIT PETITION No.25245 of 2006

ORDER:

The petitioner, a Ward Member of Gopagudipalli Village and Gram Panchayat in Kadapa District, filed this Writ Petition seeking directions by way of mandamus to direct the respondents not to construct school building in Survey No.472/1 of Gopagudipalli Village and Gram Panchayat, and to further direct the respondents to construct the school building in the land covered by Survey No.472/B or in Survey No.490 of the same Village.

It is the grievance of the petitioner that under a scheme started by the Government called “Indiramma Padhakam”, the Chairman and District Collector, Sarvashiksha Abbiyan of Kadapa District has given administrative sanction vide proceedings dated 21.06.2006 for construction of school buildings in rural and urban areas in Kadapa District, and total 242 sanctions were given in various Mandals and Gram Panchayats. So far as Gopagudipalli Village is concerned, the sanction was given for construction of three additional rooms in Survey No.472/1, and the said works were taken up for

construction on 25.06.2006. It is the grievance of the petitioner that the land belongs to Gram Panchayat and there is no sanction granted by the Gram Panchayat for construction of such building in Survey No.472/1, and the constructions being taken up are not convenient to the school children.

Counter affidavit is filed by the respondents 1 and 2 stating that the said works were taken up in the said survey number basing on the resolution of the Gram Panchayat, dated 24.06.2006, and the markings were given by the then Sarpanch. It is stated that the construction was started on 25.06.2006 basing on the permission granted by the Sarpanch of the Gram Panchayat pursuant to the resolution dated 24.06.2006. It is also stated that the present place is suitable place and the present Sarpanch of the Gram Panchayat also filed a suit in O.S.No.78 of 2006 on similar grounds, along with interlocutory application, which was rejected by order dated 13.12.2006. The third respondent also filed a counter affidavit on similar lines. While denying the allegations of the petitioner, in general, it is stated that the Gram Panchayat has granted permission by passing a resolution on 24.06.2006.

Though it is denied by the petitioner that there is no such permission, in the counter affidavits filed by the respondents it is categorically stated that the Gram Panchayat has passed resolution on 24.06.2006 permitting the construction of school building in Survey No.472/1. Though it is submitted by the petitioner that the said location of the building is not suitable, however, it is for the respondent-authorities to consider the overall situation before finalizing the place for construction of the building. When it is stated in the counter affidavits that the

said place is convenient and suitable for location of the building, there is no reason to disbelieve the same. In any event, making similar allegations, a comprehensive suit is filed in O.S.No.78 of 2006 on the file of the Court of the Junior Civil Judge, Lakkireddi Palle, Kadapa District. As the similar questions are raised in the suit, which is filed by the Sarpanch himself, and is pending, the petitioner can as well join in the said suit raising objections having regard to the factual disputes, which arise for consideration. Though the petitioner relied on the judgment of this Court in **Sarpanch, Polakala Gram Panchayat, Irala Mandal, Chittoor District v. District Collector, Chittoor**[1], however, in view of the averments in the counter affidavits filed by the respondents and having regard to the facts of the case, the said judgment is not helpful to the petitioner, moreover, it is stated in the counter affidavits that constructions were started in June 2006, that too the construction is only for additional three rooms.

At this stage, I do not find any ground either to grant any relief to the petitioner or to grant direction to stop the constructions in the said survey number by entertaining this application filed under Article 226 of the Constitution of India.

The Writ Petition is devoid of merits, and is dismissed accordingly. No order as to costs.

(R.SUBHASH REDDY, J)

12.02.2007
vs

[1] 1997(2) ALT 486